

AMENDED IN SENATE JUNE 16, 2004

AMENDED IN SENATE MAY 28, 2004

AMENDED IN ASSEMBLY MARCH 24, 2004

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 2172

Introduced by Assembly Member Levine

February 18, 2004

An act to amend Section 14666.8 of the Government Code, to amend Section 280.5 of the Public Utilities Code, and to amend Section 1 of Chapter 820 of the Statutes of 2003, relating to telecommunications.

LEGISLATIVE COUNSEL'S DIGEST

AB 2172, as amended, Levine. Telecommunications: lease of state property for wireless facilities: Digital Opportunities Account in the California Teleconnect Fund Administrative Committee Fund.

Existing law requires the Director of General Services, to compile and maintain an inventory of state-owned real property, excluding certain property, that may be available for lease to providers of wireless telecommunications services for location of wireless telecommunications facilities, and to provide a requesting party, upon payment of any applicable fee, with a copy of the inventory. Existing law authorizes the director to negotiate and enter into an agreement for the lease of certain department-managed and state-owned real property to any provider of wireless telecommunications services for location of its facilities, subject to specified conditions.

Existing law requires, notwithstanding any other provision of law, that any revenue collected from a lease entered into pursuant to these

provisions to use property that was acquired with money in a fund other than the General Fund, be deposited into the fund from which it was obtained. Existing law requires that moneys received and deposited in those funds be available upon appropriation by the Legislature notwithstanding any other provision of law.

Existing law establishes the California Teleconnect Fund Administrative Committee to advise the Public Utilities Commission regarding the commission's responsibilities for the development, implementation, and administration of a program to advance universal telephone service by providing discounted rates to qualifying schools, libraries, hospitals, health clinics, and community organizations.

Existing law establishes the California Teleconnect Fund Administrative Committee Fund in the State Treasury and provides that moneys in the fund, collected by telephone corporations in utility rates authorized by the commission and deposited into the fund, may only be expended for the purposes authorized, upon appropriation in the annual Budget Act. Existing law creates the Digital Divide Account within the fund, and requires that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to the above-described provisions, with certain exceptions, be deposited in the Digital Divide Account, to be available, upon appropriation by the Legislature, to finance digital divide projects through the Digital Divide Grant Program.

This bill would respectively rename the Digital Divide Account and the Digital Divide Grant Program, the Digital Opportunities Account and the Digital Opportunities Grant Program. The bill would require that 15% of the revenues from fees collected from the lease of state-owned real property to the providers of wireless telecommunication services pursuant to the above-described provisions, ~~that was acquired with money from a fund other than the General Fund~~ be deposited into the Digital Opportunities Account to be used for the Digital Opportunities Grant Program. The bill would require that 85% of the revenues from fees from a lease agreement to access property ~~that was acquired with money from a fund other than the General Fund~~, be deposited into that fund. The bill would require the commission to consult with the California Teleconnect Fund Administrative Committee in providing grants and establishing criteria for the distribution of funds under the Digital Opportunities Grant Program. The bill would ~~require~~ *authorize* the commission to use



moneys in the California Teleconnect Fund Administrative Committee Fund to administer the grant program.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14666.8 of the Government Code is
2 amended to read:
3 14666.8. (a) The director shall, within 120 days of the
4 operative date of this section, compile and maintain an inventory
5 of state-owned real property that may be available for lease to
6 providers of wireless telecommunications services for location of
7 wireless telecommunications facilities. This inventory shall be the
8 state's sole inventory of state-owned real property available for
9 this purpose. The term "state-owned real property," as used in this
10 section, excludes property owned or managed by the Department
11 of Transportation and property subject to Section 7901 of the
12 Public Utilities Code.
13 (b) The director shall provide, in a cost-effective manner, upon
14 payment of any applicable fee, a requesting party a copy of the
15 inventory.
16 (c) On behalf of the state, the director may negotiate and enter
17 into an agreement to lease department-managed and state-owned
18 real property to any provider of wireless telecommunications
19 services for location of its facilities. A lease for this purpose shall
20 do all of the following:
21 (1) Provide for fair market value to be paid by the provider of
22 wireless telecommunications service to the state to the extent
23 permitted under existing state law.
24 (2) Designate a lease term that is acceptable to the director and
25 the state agency that has control over the property. The duration of
26 the initial lease term for any wireless facility may not exceed 10
27 years, and the lease may provide for a negotiated number of
28 renewal terms, not to exceed five years for each term.
29 (3) Provide for the use of the wireless provider's facilities
30 located on the state-owned real property by any appropriate state
31 agency if technically, legally, aesthetically, and economically
32 feasible.

(4) Facilitate, to the greatest extent possible, agreements among providers of wireless telecommunications services for colocation of their facilities on state-owned real property.

(d) Nothing in this section alters any existing rights of telegraph or telephone corporations pursuant to Section 7901 of the Public Utilities Code.

(e) Notwithstanding any other provision of law, 85 percent of any revenue collected from a lease entered into pursuant to this section ~~to use property that was acquired with money from a fund other than the General Fund~~, including a special fund established pursuant to Chapter 2 (commencing with Section 16346), shall be deposited into the fund from which the money was obtained. Fifteen percent of any revenue collected from a lease ~~to use property that was acquired with money from a fund other than the General Fund entered into pursuant to this section~~ shall be deposited into the Digital Opportunities Account in the California Teleconnect Fund Administrative Committee Fund, to be used for digital opportunity projects pursuant to Section 280.5 of the Public Utilities Code. ~~Money received and deposited into a fund pursuant to this section shall be available upon appropriation by the Legislature notwithstanding any other provision of law.~~

SEC. 2. Section 280.5 of the Public Utilities Code is amended to read:

~~280.5. (a) Of the revenues from fees collected pursuant to Section 14666.8 of the Government Code after the operative date of this section, except for revenues from fees from a lease agreement for access to Department of Transportation property or fees from a lease agreement for access to state property existing prior to the operative date of the section, 15 percent shall be available, upon appropriation by the Legislature, for the purpose of creating digital opportunities by offering access to existing, new, and developing communication technologies. Eighty-five percent of the revenues from fees from a lease agreement for access to property that was acquired with money from a fund other than the General Fund, shall be deposited into that fund pursuant to subdivision (c) of Section 14666.8 of the Government Code.~~

~~(b) Revenues described in subdivision (a) shall be deposited in the~~

280.5. (a) The Digital Opportunities Account, which is hereby established in the California Teleconnect Fund

Administrative Committee Fund established pursuant to Section 270, to be used only for digital opportunities pilot projects. Not more than 5 percent of the revenues ~~described in subdivision (a) in this account~~, may be used to pay the costs incurred in connection with the administration of digital opportunities pilot projects by the commission.

~~(e)~~

(b) (1) The Digital Opportunities Grant Program is hereby established subject to the availability of funding pursuant to this section. The commission may not implement the grant program until the commission projects that at least five hundred thousand dollars (\$500,000) will be available in the Digital Opportunities Account during the calendar year following implementation, based on money collected pursuant to Section 14666.8 of the Government Code.

(2) The commission shall, in consultation with the California Teleconnect Fund Administrative Committee, provide grants pursuant to this subdivision on a competitive basis subject to criteria to be established by the California Teleconnect Fund Administrative Committee and the commission and in a way that disburses the funds widely, including urban and rural areas. Grants shall be awarded to a nonprofit community technology ~~program~~ *programs*, as defined in Section 884, for the purpose of funding community technology programs in underserved communities.

(3) Recipients of grants pursuant to this subdivision shall report to the commission annually on the effectiveness of the grant program.

(4) The commission shall report to the Legislature and the Governor annually on the effectiveness of the program administered pursuant to this subdivision.

(5) The commission ~~shall~~ *may* use moneys from the California Teleconnect Fund Administrative Committee Fund to administer the grant program. *Any revenues used from this fund for administration shall count against the 5-percent limitation in subdivision (a).*

~~(d)~~

(c) For purposes of this section, “community technology programs” means a program that is engaged in diffusing technology in local communities and training local communities in the use of technology, especially local communities that

1 otherwise would have no access or limited access to the Internet
2 and other technologies.

3 (e) For purposes of this section, “digital opportunities
4 projects” means community technology programs involved in
5 activities that include, but are not limited to, the following:

6 (1) Providing open access to and opportunities for training in
7 technology.

8 (2) Developing content that is available through the Internet
9 and is relevant to the interests and wants of the local community.

10 (3) Preparing youth for opportunities in the new economy
11 through employment training and skills, including multimedia
12 skills and access to educational assistance beyond the regular
13 schoolday or school year.

14 (4) Using technology for access to e-government services and
15 educational opportunities.

16 SEC. 3. Section 1 of Chapter 820 of the Statutes of 2003 is
17 amended to read:

18 SECTION. 1. The Legislature finds and declares all of the
19 following:

20 (a) Wireless telecommunications service is a critical part of
21 California’s infrastructure.

22 (b) The rapid deployment of wireless telecommunications
23 facilities is critical to ensure network access and quality of service.

24 (c) It is in the public interest to minimize the aesthetic impact
25 of wireless telecommunications towers and facilities necessary to
26 support wireless networks.

27 (d) Use of property owned by the state, local government
28 agencies, and other public entities for location of wireless
29 telecommunications facilities will expedite deployment of
30 wireless telecommunications service and minimize the aesthetic
31 impact of wireless telecommunications towers and, facilities, or
32 other wireless repeaters, amplifiers, regenerative repeaters, or
33 regenerators that have the shape of natural or manmade structures
34 or objects.

35 (e) Today, many Americans are using the Internet to conduct
36 daily activities, including job searches, job training, accessing
37 e-government services, and educational enhancement.

38 (f) Raising the level of digital access and opportunities by
39 increasing the number of Californians using the technology tools
40 of the digital age is a high priority for the State of California.

1 (g) Access through the Internet to governmental services and
2 educational programs can provide a cost-effective method of
3 service delivery.

4 (h) Community technology programs prepare Californians for
5 the digital age and the resulting economic and educational
6 opportunities that fuel California's economy, and can provide
7 access to governmental services in a cost-effective manner.

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